IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY THIRD DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

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WRIT PETITION NO : 5866 of 1994

Between:

N. Venkata Narayana,s/o.Venkatappa, aged: 43 years, occ;Clerk, Syndicate Bank, Anantapur, R/o. Anantapur

..... PETITIONER

AND

1. The Collector and District Magistrate, Anantapur District,Anantapur.
2. The Assistant General Manager, zonal Office, Syndicate Bank, somajiguda, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the proceedings of District Collector, Anantapur, the first respondent herein, passed in Rc.No.(C5).34/87, dated 26.06.1993 and the Charge Memo, dated 21.10.1993, proceedings No.CGS/HYD/93/20 of the respondent No.2-Bank, as illegal and void.

Counsel for the Petitioner:MR.C.V.MOHAN REDDY

Counsel for the Respondent No.1:G.P. FOR SOCIAL WELFARE.

Counsel for the Respondent No.2: MR.K.SRINIVASAMURTHY

The Court made the following :

ORAL ORDER:

1. The writ petition is filed challenging the proceedings issued by the first respondent-District Collector in Rc.No.(C5).34/87, dated 26.06.1993, and consequential Charge Memo dated 21.10.1993 issued by the second respondent-management.

2. Petitioner was appointed as a Clerk in Syndicate Bank. According to the petition averments, he belongs to Boya community. He made an application for issuance of

Caste Certificate to the Tahsildar, Anantapur stating that he belongs to Boya community. Accordingly, after enquiry, the Tahsildar, Anantapur issued Caste Certificate dated 01.01.1978 stating that the petitioner belongs to Boya community, which is recognized as Scheduled Tribe. Thereafter, the petitioner was appointed as a Clerk in Syndicate Bank on 16.05.1978 and he was confirmed in the grade of Clerk. While he was working as Clerk, a show cause notice was issued on 16.11.1992 as to why Boya (Scheduled Tribe Certificate) issued by the then Tahsildar, Anantapur dated 01.01.1978 to the petitioner should not be cancelled and criminal action should not be taken. It is on record that before issuing the show cause notice, the District Collector, Anantapur, directed the Revenue Divisional Officer to conduct an enquiry and send a report. Accordingly, the Revenue Divisional Officer, Anantapur, conducted the enquiry and he is understood to have sent a report on 05.12.1987. Basing on the said report, show cause notice dated 16.11.1992 was issued, to which he submitted his explanation. One of the points raised by him was that he was not furnished with a copy of the report of the Revenue Divisional Officer and he was also not given proper opportunity to participate in the enquiry conducted by the Revenue Divisional Officer. However, the District Collector, Anantapur, passed Orders on 29.6.1993 canceling the said Certificate. Consequent on the issuance of the impugned order dated 26.06.1993, the management of the Syndicate Bank issued charge memo dated 21.10.1993. Therefore, the order passed by the District Collector, Anantapur, came to be challenged in the present writ petition.

3. The learned counsel for the petitioner, Mr. C.V. Mohan Reddy submits that when the enquiry was sought to be conducted by the Revenue Divisional Officer, Anantapur, with regard to the circumstances under which the Scheduled Tribe Certificate came to be issued by the Tahsildar, Anantapur, no opportunity was given to the petitioner to participate in the enquiry proceedings and further, the report of the Revenue Divisional Officer, Anantapur was not furnished to the petitioner in spite of the request made by him. Even in the order passed by the District Collector, Anantapur, dated 26.06.1993, the said contention was referred to, but it was observed by the District Collector, Anantapur that inasmuch as notice was issued to the petitioner, sufficient opportunity was given by the District Collector, Anantapur. Under those circumstances, the learned counsel would submit that, without going into the merits of the case, serious prejudice has been caused to the petitioner by not furnishing the enquiry report of the Revenue Divisional Officer and on this

ground alone, the entire proceedings have to be set aside. He further submitted that no fault can be attributed to the petitioner inasmuch as he sought for a caste certificate from the Tahsildar, Anantapur stating that he belongs to Boya Community. Therefore, neither there is any suppression of the facts nor misrepresentation of the caste by the petitioner and thus, even on merits also, no case is made out for cancellation of the certificate.

4. On the other hand, the learned Government Pleader submits that sufficient opportunity was given to the petitioner by the District Collector, Anantapur and hence, it cannot be said that the order is in violation of the Principles of Natural Justice.

5. The learned counsel for the 2nd respondent submits that basing on the order issued by the District Collector, Anantapur, charges were framed and enquiry was proposed to be held against the petitioner for submitting false caste certificate. Therefore, the order of the District Collector, Anantapur cannot be said to be illegal or contrary to law.

6. I have heard the learned counsel for the parties.

7. There is no dispute that the Tahsildar, Anantapur, issued caste certificate to the effect that the petitioner belongs to Boya (Scheduled Tribe) community, but the question that calls for consideration is as to whether before cancelling the certificate, proper opportunity was given to the petitioner by the inquiring authority? Admittedly, in this case, the Revenue Divisional Officer was directed to conduct an enquiry and submit a report, but that does not mean that the enquiry should take without opportunity to the petitioner. It is necessary that the petitioner ought to have been called for enquiry and necessary opportunity should be given. Further, the report of the Revenue Divisional Officer was not furnished, which completely disabled the petitioner to give effective representation. Thus, I find that the order of the District Collector, Anantapur is in gross violation of the Principles of Natural Justice and on this ground alone, without going into other merits of the case, I am inclined to allow the writ petition.

8. Accordingly, the writ petition is allowed and the charge memo stands quashed. No costs.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday the twenty third day of July, 2004.

REGISTRAR

23rd July, 2004

sj/chv

To

1. The Collector and District Magistrate, Anantapur District,Anantapur.
2. The Revenue Divisional Officer, Anatapur.
3. The Assistant General Manager, zonal Office, Syndicate Bank, somajiguda, Hyderabad.
4. Two CCs to the Government Pleader for Social Welfare, High Court Building, Hyderabad. (OUT).
5. Two C.D. copies.